

State of UtahAdministrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-55c	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
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	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dennis Meservy	801-530-6375	801-530-6511	dmeservy@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Construction Trades Licensing Act Plumber Licensing Rules
3.	Type of notice:
	New ____; Amendment XX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	The Division, Construction Services Commission and Plumbers Licensing Board are proposing amendments to the rule which they believe are necessary

	and reflect the current needs of the plumbing industry and the public.
5.	<p>This change is a response to comments from the Administrative Rules Review Committee.</p> <p>Yes ____; No XX</p>
6.	<p>Summary of the rule change:</p> <p>Various statute citations are corrected throughout the rule. Section 302b-Apprenticeship Education has been deleted. Section 302c has been renumbered to Section 302b-Training and Instruction Requirement. Numerous amendments have been made in this section to add flexibility to the training and instruction work process hours identified in Tables I and II. The work process hours identified in Tables I and II have been changed from approximate to minimum hours and the total number of hours in each table have been reduced. Also, Table I work experience hours can now be obtained in seven of the nine work process areas and Table II work experience hours can now be obtained in six of the eight work process areas. Amendments being added as paragraph (6)(c) will change the supervising ratio on commercial type work to two apprentice plumbers for each journeyman plumber. This proposed amendment will make the ratio the same for both commercial and residential type work. Section 302d has been renumbered to Section 302c-Examination Requirements. Amendments are proposed in this section to more clearly state the requirements of the section. Section 307 has been renumbered to Section 304. Section 501-Unprofessional Conduct: Amendments are proposed in this section to more clearly define what type of conduct is considered unprofessional conduct and paragraph (6) is being added to indicate that failure as a plumbing contractor to certify an apprentice's hours when requested by an apprentice who is or has been employee of the plumbing contractor is considered unprofessional conduct. Sections 601 and 602 have been deleted in their entirety as the information contained in these two sections has been incorporated into amendments proposed in Section 302b. Section 701 has been renumbered to Section 601.</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred by the Division will be absorbed in the Division's current budget. The proposed amendments regarding the supervisory ratio between apprentice and journeyman plumbers would reduce labor costs. Contractors, however, have recently experienced shortages in labor and significant increases in the costs of building materials. It is anticipated there would be no direct impact on the state's budget because any savings involving state construction projects would most likely be lost due to cost increases in building materials. The enforcement of an employer not certifying an apprentice's hours would be a state/Division responsibility. However, there is an expectation that this proposed amendment in the rule would rarely be used.</p> <p>B) Local government:</p> <p>There should be no direct impact on the budgets of local governments as a result of these proposed amendments. This would also be due to the fact that any savings in construction projects involving cities would most likely be lost</p>

	<p>due to increases in the cost of building materials.</p>
	<p>C) Other persons:</p>
	<p>There should be no negative impact to the public as a result of the proposed amendments. The proposed amendments are expected to help ease the current shortage of apprentice plumbers. The perception is that the change to the supervisory ratio between apprentices and journeymen is safe and a workable solution to the problem. However, it is unlikely the public will see any financial savings to this change in the ratio due to increases in the cost of building materials. Also, plumbing contractors involved in commercial work would experience a reduction in the cost of labor due to the supervisory ratio amendments. However, the Division is unable to determine an exact number of the savings due numerous factors which could influence those potential savings.</p>
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>The proposed amendments are expected to help ease the current shortage of apprentice plumbers. Also, plumbing contractors involved in commercial work would experience a reduction in the cost of labor. It is surmised the amendment making it unprofessional conduct for a plumbing contractor not to certify an apprentice's hours would have little to no impact on the industry. A similar provision in the rules regarding electricians has rarely been used against a contractor but has proven to be a valuable tool in assisting apprentices who have left employment with one employer and gone to work for another employer.</p>
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>It is anticipated the plumbing industry will experience a cost-savings due to the amendments which allow two apprentices for each supervising plumber. No further fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director</p>
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.State code or constitution citations (required):</p> <p>Section 58-55-101 and Subsections 58-5-106(1)(a) and 58-1-202(1)(a)</p>
11.	<p>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p>
12.	<p>The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p>

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		10/02/2006
B) A public hearing (optional) will be held:		
on (mm/dd/yyyy):	at (time):	At (place):
09/27/2006	9:00 am	160 East 300 South Conference Room 474 Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	10/10/2006
NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):	
	occupational licensing	licensing
	plumbers	plumbing
15.	Attach an RTF document containing the text of this rule change (filename):	R156-55c.pro
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
AGENCY AUTHORIZATION		
Agency head or designee, and title:	J. Craig Jackson, Director	Date (mm/dd/yyyy): 08/07/2006

ProposedRule.doc 9/26/2003

**R156. Commerce, Occupational and Professional Licensing.
R156-55c. Construction Trades Licensing Act Plumber Licensing Rules.
R156-55c-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55 or these rules:

- (1) "Board" means the Plumbers Licensing Board.
- (2) "Plumber" means apprentice plumber, residential apprentice plumber, journeyman plumber, and residential journeyman plumber.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203([5]1)(e), in Subsection R156-55c-501.

R156-55c-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 55.

~~[R156-55c-302b. Qualifications for Licensure - Apprenticeship Education.]~~

~~In accordance with Subsections 58-1-203(2) and 58-1-301(3), the apprenticeship education requirements for licensure in Subsection 58-55-302(3)(a) and (b) are defined, clarified, or established as follows:~~

~~(1) a journeyman plumber applicant seeking licensure under training and instruction requirements set forth in Subsection R156-55c-302e(1)(a) shall demonstrate successful completion of not less than 576 clock hours of classroom instruction in an apprenticeship program meeting the requirements of Section R156-55c-601; and~~

~~(2) a residential journeyman plumber applicant seeking licensure under training and instruction requirements set forth in Subsection R156-55c-302e(2)(a) shall demonstrate successful completion of not less than 432 hours of classroom instruction in an apprenticeship program meeting the requirements of Section R156-55c-601.~~

~~]~~

R156-55c-302[e]b. Qualification for Licensure - Training and Instruction Requirement.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the training and instruction requirements for licensure in Subsection 58-55-302(3)(a) and (b) are defined, clarified, or established as follows:

(1) An applicant for a journeyman plumber's license [applicant] shall demonstrate successful completion of the requirements of either paragraph (a) or (b):

(a)(i) 8,000 hours of training and instruction[, in not less than four years that meets the requirements of Subsections R156-55c-302b(4) and (6).[, while licensed as an apprentice plumber, completed in an apprenticeship program of training meeting the requirements of Section R156-55c-601, in the following experience areas and approximate number of hours as identified in Table I; or

(b) 16,000 hours of experience, in not less than eight years, as a plumber under the supervision of a journeyman plumber with a minimum number of hours of experience in each of the experience areas required under Subsection (1)(a).]

(ii) the 8,000 hours shall include 576 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);

(iii) the apprenticeship shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and

(v) the hours obtained in any work process area shall be at least the number of hours listed in Table I.

(b)(i) 16,000 hours of on the job training and instruction in not less than eight years;

- (ii) the apprenticeship shall be obtained while licensed as an apprentice plumber;
- (iii) the hours shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and
- (iv) the hours obtained in any work process shall be at least the number of hours listed in Table I.

TABLE I
Training and Instruction

Work Process	Approximate Minimum Hours
A. Use of hand tools, equipment and pipe machinery	200
B. Installation of piping for waste, soil, sewer [vent] and [leader] <u>vent</u> lines	[2,250] <u>2,000</u>
C. Installation of hot and cold water for domestic purposes	[1,600] <u>1,400</u>
D. Installation and setting of plumbing appliances and fixtures	[1,600] <u>1,400</u>
E. Maintenance and repair of plumbing	[800] <u>600</u>
F. General pipe work including process and industrial hours	[800] <u>600</u>
G. Gas piping or service piping	[500] <u>400</u>
H. <u>Welding, soldering and brazing</u> as it applies to the trade	100
I. Service and maintenance of gas controls and equipment	[200] <u>100</u>

(2) An applicant for a residential journeyman plumber's license ~~[applicant]~~ shall demonstrate successful completion of the requirements of paragraph (a) or (b):

(a)(i) 6,000 hours of training and instruction~~[,]~~ in not less than three years~~[, while licensed as an apprentice plumber or residential apprentice plumber, completed an apprenticeship program of training meeting the requirements of Section R156-55c-601, in the following experience areas and approximate number of hours as identified in Table II; or]~~ that meets the requirements of Subsections R156-55c-302b(4) and (6).

(ii) the 6,000 hours shall include 432 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);

(iii) the 6,000 hours shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in six of the seven work process areas listed in Table II; and

(v) the hours obtained in any work process area shall include at

least the number of hours listed in Table II.

(b)(i) 12,000 hours of experience[7] in not less than six years[7, in a maintenance or repair trade for which the applicant can document that not less than 75% of the work performed was directly involved in the plumbing trade including as a minimum the number of hours performing work in each of the experience areas required under Subsection (2)(a)-.] which has been documented using a form provided by the division;

(ii) the experience shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iii) at least 9,000 hours of experience shall be directly involved in the plumbing trade;

(iv) the hours shall be in six of the eight work process areas listed in Table II; and

(v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.

TABLE II
Training and Instruction

Work Process	[Approximate] <u>Minimum</u> Hours
A. Use of hand tools, equipment and pipe machinery	100
B. Installation of piping for waste, soil, sewer [vent] and [leader] <u>vent</u> lines	[1,800] <u>1,600</u>
C. Installation of hot and cold water for domestic purposes	[1,400] <u>1,200</u>
D. Installation and setting of plumbing appliances and fixtures	[1,200] <u>1,000</u>
E. Maintenance and repair of plumbing	[800] <u>600</u>
F. Gas piping or service piping	[500] <u>400</u>
G. Service and maintenance of gas controls and equipment	[200] <u>100</u>
H. <u>Welding, soldering and brazing as it applies to the trade</u>	<u>100</u>

(3) A licensed residential journeyman plumber applying for a journeyman plumber's license [must] shall complete 2,000 hours of on the job training in industrial or commercial plumbing while licensed as an apprentice plumber or residential apprentice plumber, which shall include successful completion of [and complete] an approved fourth year course of classroom instruction.

(4) On the job training and instruction required in this section shall include measurements of an apprentice's performance in the plumbing trade.

(5) Formal classroom instruction required by this section shall meet the following requirements:

(a) instruction shall be conducted by an entity approved by the Board of Regents or by another entity that demonstrates to the division and board that it conducts equivalent classroom instruction; and

(b) instruction shall be conducted by competent qualified staff and shall include measures of competency and achievement level of each apprentice.

(6) Apprentice plumbers and residential apprentice plumbers shall engage in the plumbing trades only in accordance with the following:

(a) except as provided in Subsection 58-55-302(3)(c)(ii) for fourth through tenth year apprentices, while engaging in the plumbing trade, an apprentice plumber or residential apprentice plumber shall be under the immediate supervision of a journeyman plumber for commercial or industrial work, and by a residential journeyman or journeyman plumber for residential work;

(b) the apprentice shall engage in the plumbing trade in accordance with the instruction of the supervising plumber; and

(c) the apprentice shall work in a ratio of not to exceed two apprentice plumbers to one supervising plumber.

R156-55c-302[d]c. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Subsection 58-55-302(1)(c)(i) are defined, clarified, or established as follows:

(1) ~~The [examination which must be passed and the minimum score required on each examination for licensure as a journeyman plumber and residential journeyman plumber is]~~applicant shall obtain a score of 70% on the Utah Plumbers Licensing Examination which shall consist[s] of a written section and practical section~~[with a minimum score of 70% on each section].~~

(2) Admission to the examinations is permitted after the applicant has completed all requirements for licensure set forth in Sections R156-55c-302a, R156-55c-302b and R156-55c-302c.

(3) An examinee who passes one section of the Utah Plumbers Licensing Examination and fails the other section shall be required to retake and pass only the section failed.

(4) An examinee who fails either or both sections of the Utah Plumbers Licensing Examination two times shall not be permitted to retake the examination until:

(a) ~~the examinee [meets with the board and the board outlines a required]~~completes a remedial program of education of one semester of school for each test section failed twice; or~~[or experience of up to one year in length which must be completed before the examinee may again take the examination; and]~~

(b) the examinee meets with the Board and completes an alternate remedial program outlined by the Board~~[successfully completes the required remedial program of education or experience].~~

(c) ~~[Upon completion of]~~After completing the required remedial program~~[of education and experience]~~, the examinee shall retake the failed portions of the examination a maximum of two times of the next two examinations offered.

(d) Failure to pass ~~[both required]~~the failed portions of the examination upon retake shall result in denial of the~~[i.e.]~~ application for

licensure. An applicant continuing to seek licensure ~~[must]~~ shall reapply for licensure by filing a new application with the required fee and may do so only after completing additional remedial education and experience as determined by the division and the board.

R156-55c-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 55, is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-55c-~~[307]~~304. Licensure by Endorsement.

In accordance with the provisions of Section 58-1-302, the division may issue an individual a license as an apprentice plumber, residential apprentice plumber, journeyman plumber, or residential journeyman plumber by endorsement, in accordance with the following:

(1) An applicant for licensure by endorsement as a journeyman plumber or residential journeyman plumber has the burden to demonstrate that the apprenticeship instruction and training, or experience requirements in lieu of an apprenticeship, and the examination requirements of the state or jurisdiction in which the applicant holds licensure are equal to the requirement of this state or were equal to the requirements of this state at the time the applicant received licensure in the other state.

(2) An applicant for licensure as an apprentice or apprentice residential plumber who has completed part of apprenticeship training and instruction in another jurisdiction has the burden to demonstrate that the apprenticeship program in the other state is equivalent to an approved apprenticeship program in this state as a condition of the applicant being given credit for completion of an apprenticeship program in another state.

R156-55c-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) engaging in the plumbing trade as an apprentice plumber or residential apprentice plumber on a commercial or industrial project when not under the immediate supervision of a journeyman plumber~~[, or a residential apprentice plumber when not under the general supervision of a licensed journeyman plumber or residential journeyman plumber];~~

(2) engaging in the plumbing trade as an apprentice plumber or as a residential apprentice plumber on a residential project when not under the immediate supervision of a residential journeyman or journeyman plumber, except as provided in Subsection 58-55-302(3)(c)(ii)~~[except in accordance with instructions of the supervising journeyman or residential journeyman plumber];~~

(3) ~~[acting as a journeyman plumber or residential journeyman plumber on residential projects when supervising more than two apprentice plumbers or residential apprentice plumbers, or a combination of them, and one unlicensed assistant]~~engaging in the plumbing trade as an apprentice plumber except in accordance with instructions of the supervising plumber;

(4) acting as a journeyman plumber or residential journeyman plumber while supervising more than two apprentice plumbers;~~[on industrial or commercial projects when supervising more than one apprentice plumber and one unlicensed assistant; and]~~

(5) failure as a licensed plumber to carry a copy of his current

plumber's license on his person or in close proximity to his person when performing plumbing work or to display that license upon request of a representative of the division or any law enforcement officer; and

(6) failure as a plumbing contractor to certify an apprentice's hours when requested by an apprentice who is or has been an employee of the plumbing contractor.

~~[R156-55c-601. Qualifications for Approval of Apprenticeship Program.~~

~~An apprenticeship program qualifying an applicant for licensure as a journeyman plumber or residential journeyman plumber to meet the education requirements for licensure under Section R156-55c-302b and the training and instruction requirements for licensure under Section R156-55c-302c shall meet the following:~~

~~(1) Formal classroom instruction shall be:~~

~~(a) conducted by Local Education Agency (LEA), or by some other entity which demonstrates to the division and board that it conducts classroom instruction equivalent to that of a LEA;~~

~~(b) conducted by competent qualified staff and shall include measures of competency and achievement level of each apprentice; and~~

~~(c) meet the following minimum required hours of classroom instruction:~~

~~(i) apprentice plumber classroom instruction of not less than 576 clock hours; and~~

~~(ii) residential apprentice plumber classroom instruction of not less than 432 clock hours.~~

~~(2) Training and instruction shall:~~

~~(a) be under the immediate supervision of a licensed journeyman plumber for an apprentice plumber or under the immediate supervision of a licensed journeyman plumber or residential journeyman plumber for a residential apprentice plumber;~~

~~(b) include measurements of an apprentice's performance of work in all experience areas set forth in Table I for apprentices preparing for a journeyman plumbers license, or measurements of an apprentice's performance of work in all experience areas set forth in Table II for apprentices preparing for a residential journeyman plumbers license; and~~

~~(c) meet the following minimum hours of training and instruction:~~

~~(i) apprentice plumber training and instruction of not less than 8,000 hours in not less than four years in work areas defined in Table I; and~~

~~(ii) residential apprentice plumber training and instruction of not less than 6,000 hours in not less than three years in work areas defined in Table II.~~

~~R156-55c-602. Supervision of Apprentices and Unlicensed Assistants.~~

~~(1) Apprentice plumbers shall engage in plumbing only in accordance with the following:~~

~~(a) while engaging in the trade of plumbing, an apprentice plumber shall be under the immediate supervision of a licensed journeyman plumber;~~

~~(b) while engaging in the trade of plumbing, a residential apprentice plumber shall be under the immediate supervision of a licensed journeyman plumber or residential journeyman plumber;~~

~~(c) the apprentice shall engage in plumbing in accordance with the instruction of the supervising journeyman plumber; and~~

~~(d) an apprentice shall work under a supervising journeyman plumber on commercial or industrial plumbing jobs in a ratio not to exceed one apprentice plumber to one supervising journeyman plumber, and on residential plumbing jobs in a ratio not to exceed two apprentice plumbers to one supervising journeyman plumber.~~

~~(2) Residential apprentice plumbers shall engage in plumbing only under a supervising journeyman plumber or residential journeyman plumber on residential plumbing jobs in a ratio not to exceed two residential apprentice plumbers to one supervising journeyman plumber.~~

~~(3) A supervising journeyman plumber or residential journeyman plumber may supervise in addition to apprentice plumbers or residential apprentice plumbers in accordance with Subsections (1) and (2), one unlicensed plumbing assistant who is not engaged in the trade of plumbing.~~

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R156-55c-~~[701]~~601. Proof of Licensure.

Each apprentice, residential apprentice, residential journeyman and journeyman plumber shall:

(1) carry on his person or in close proximity to his person his current license when he is engaged in the plumbing trade; and

(2) display his license to a representative of the division or any law enforcement officer upon request.

KEY: occupational licensing, licensing, plumbers[*], plumbing[*]

Date of Enactment or Last Substantive Amendment: ~~[September 4, 2001]~~2006

Notice of Continuation: January 7, 2002

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101